

HOUSE BILL NO. 382

INTRODUCED BY T. CALLAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A DISABLED OR INJURED WORKER AND NOT THE INSURER SHALL DESIGNATE THE REHABILITATION PROVIDER WITH RESPECT TO WORKERS' COMPENSATION REHABILITATION BENEFITS; AND AMENDING SECTIONS 39-71-1006 AND 39-71-1011, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-1006, MCA, is amended to read:

"39-71-1006. Rehabilitation benefits. (1) A worker is eligible for rehabilitation benefits if:

(a) (i) the worker meets the definition of a disabled worker as provided in 39-71-1011; or

(ii) the worker has, as a result of the work-related injury, a whole person impairment rating of 15% or greater, as established by objective medical findings, and has ~~no~~ not had actual wage loss;

(b) a rehabilitation provider, as designated by the ~~insurer~~ worker, certifies that the worker has reasonable vocational goals and reasonable reemployment opportunity. If the worker is eligible because of an impairment rating of 15% or more, the certification must state that with rehabilitation the worker will have a reasonable increase in the worker's wage compared to the wage that the worker received at the time of injury. If the worker is eligible because of a wage loss, the certification must state that the worker will have a reasonable reduction in the worker's actual wage loss with rehabilitation.

(c) a rehabilitation plan is agreed upon by the worker and the insurer and a written copy of the plan is provided to the worker. The plan must take into consideration the worker's age, education, training, work history, residual physical capacities, and vocational interests. The plan must specify a beginning date and a completion date. The plan must specify the cost of tuition, fees, books, and other reasonable and necessary retraining expenses required to complete the plan.

(2) A disabled worker is entitled to receive biweekly compensation benefits at the worker's temporary total disability rate. The benefits must be paid for the period specified in the rehabilitation plan, not to exceed 104 weeks. The rehabilitation plan must be completed within 26 weeks of the completion date specified in the plan. Rehabilitation benefits must be paid biweekly while the worker is satisfactorily progressing in the

1 agreed-upon rehabilitation plan. Benefits under this section are not subject to the lump-sum provisions of
2 39-71-741.

3 (3) In addition to rehabilitation benefits payable under subsection (2), a disabled worker who was injured
4 on or after July 1, 1997, is entitled to receive payment for tuition, fees, books, and other reasonable and
5 necessary retraining expenses, excluding travel and living expenses paid pursuant to the provisions of
6 39-71-1025, as set forth in department rules and as specified in the rehabilitation plan. Expenses must be paid
7 directly by the insurer.

8 (4) A worker may not receive temporary total benefits and the benefits under subsection (2) during the
9 same period of time.

10 (5) A rehabilitation provider authorized by the ~~insurer~~ injured worker shall continue to assist the injured
11 worker until the rehabilitation plan is completed.

12 (6) To be eligible for benefits under this section, a worker is required to begin the rehabilitation plan
13 within 78 weeks of reaching maximum medical healing.

14 (7) A worker may not receive both wages and rehabilitation benefits without the written consent of the
15 insurer. A worker who receives both wages and rehabilitation benefits without written consent of the insurer is
16 guilty of theft and may be prosecuted under 45-6-301."

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18 **Section 2.** Section 39-71-1011, MCA, is amended to read:

19 **"39-71-1011. Definitions.** As used in this chapter, the following definitions apply:

20 (1) "Board of rehabilitation certification" means the nonprofit, independent, fee-structured organization
21 that is a member of the national commission for health certifying agencies and that is established to certify
22 rehabilitation practitioners.

23 (2) "Disabled worker" means a worker who has a permanent impairment, established by objective
24 medical findings, resulting from a work-related injury that precludes the worker from returning to the job the
25 worker held at the time of the injury or to a job with similar physical requirements and who has an actual wage
26 loss as a result of the injury.

27 (3) "Rehabilitation benefits" means benefits provided in 39-71-1006 and 39-71-1025.

28 (4) "Rehabilitation plan" means a written individualized plan that assists a disabled worker in acquiring
29 skills or aptitudes to return to work through job placement, on-the-job training, education, training, or specialized
30 job modification and that reasonably reduces the worker's actual wage loss.

1 (5) "Rehabilitation provider" means a rehabilitation counselor certified by the board ~~for~~ of rehabilitation
2 certification and designated by the insurer.

3 (6) "Rehabilitation services" means a program of evaluation, planning, and implementation of a
4 rehabilitation plan to assist a disabled worker to return to work."

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